

[ORAL ARGUMENT SCHEDULED FOR DECEMBER 9, 2016]
Nos. 15-1074, 15-1130

In the United States Court of Appeals
for the District of Columbia Circuit

AMPERSAND PUBLISHING, LLC, D/B/A SANTA BARBARA NEWS-PRESS,
Petitioner/Cross-Respondent,

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent/Cross-Petitioner,

GRAPHICS COMMUNICATIONS CONFERENCE OF THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS
Intervenor for Respondent/Cross-Respondent

On Petition for Review of an Order
of the National Labor Relations Board

SUPPLEMENTAL JOINT DEFERRED APPENDIX

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1 A I believe he was city editor or maybe he had been promoted
2 to a news editor or associate editor, something like that.

3 Q Were you paid hourly by *Santa Barbara News Press*?

4 A Yes.

5 Q And what was the last hourly rate you earned?

6 A \$25.94.

7 Q Did you receive merit wage increases during your
8 employment at *Santa Barbara News Press*?

9 A Yes, I did.

10 Q Did you have an understanding of how *Santa Barbara News*
11 *Press* granted these merit wage increases?

12 A Yes, I do.

13 Q And what was your understanding how *Santa Barbara News*
14 *Press* granted these merit wage increases?

15 A It was my understanding that the merit wage increases were
16 directly linked to your performance during that prior year.

17 Q Did you have any communications with any employer
18 representatives about how wage increases were tied to
19 performance?

20 A I'm sorry, did I have any?

21 Q Communications or discussions with any employer
22 representatives about how wage increases were tied to
23 performance?

24 A Yes.

25 Q Okay. With whom did you speak?

1 A Joe Cole.

2 Q Who is Joe Cole?

3 A He was counsel for Ampersand as well as -- for some amount
4 of time, he was publisher.

5 Q Publisher of the *Santa Barbara News Press*?

6 A Of the *Santa Barbara News Press*.

7 Q Okay. And when did you have this communication with Mr.
8 Cole?

9 A Shortly after Ampersand bought the *Santa Barbara News*
10 *Press*, there was a staff meeting where he discussed this.

11 Q Okay. And when you say shortly after Ampersand bought the
12 paper, do you have a sense of what year that was?

13 A I believe it was in 2000.

14 Q Do you recall what part of that year?

15 A I don't, I'm sorry.

16 Q And I believe you testified there was some kind of
17 meeting. Who was present for this meeting?

18 A It was a staff meeting.

19 Q How many people were present?

20 A I'd say maybe 25, 30.

21 Q And where did this meeting take place?

22 A The third floor conference room at the *News Press*.

23 JUDGE ANDERSON: When you say a staff meeting, a staff of
24 what organizational unit? It doesn't sound like it's everybody
25 at the paper, 25 or 30 people.

1 initiating explanation. In other words, this is the first
2 time, as I understood, that Ampersand -- the new owner is
3 explaining the new owner's practices rather than the old. So,
4 although it may be old, as Acheson said, "Present at the
5 Creation" is always an additional aspect of relevance. So I'll
6 hear it, objection's overruled.

7 MS. SILVERMAN: Thank you, Your Honor.

8 Q Do you recall the question?

9 A Can you please ask it again?

10 Q Who said what at this meeting that you were starting to
11 testify about?

12 A Okay.

13 JUDGE ANDERSON: When she asks you that, she really wants
14 you to be a tape recorder and not an editor. Play back what was
15 said, don't tell us what was in your mind or what you guessed
16 others thought, okay?

17 WITNESS: Okay.

18 JUDGE ANDERSON: Thank you. Please proceed.

19 WITNESS: Thank you.

20 A It was a staff meeting up on the third floor conference
21 room and I recall that Joe Cole was explaining that there would
22 no longer be 401K matches or pension plan under the new
23 ownership, and that what they were going to do was go to
24 performance based bonuses and raises, and that he -- that they
25 thought this would provide more incentive for the employees.

1 Q Did Mr. Cole explain how these bonuses and raises would be
2 tied to performance?

3 A He explained that there would be evaluations, which we had
4 prior to that, that we would continue the evaluations and that
5 it would be linked to the scores.

6 Q How long did this meeting last?

7 A I'd say maybe half an hour.

8 Q Did you have an understanding of how your performance
9 evaluation affected your merit wage increase?

10 A Yes.

11 Q Okay. What was your understanding?

12 A That the higher the score I got on my performance
13 evaluation, the higher wage I would receive.

14 Q From 2000 until your discharge, how often did you receive
15 merit wage increases?

16 A Every year except for the last year.

17 Q And the last year was -- which year was that?

18 A I received no merit wage increase for performance during
19 2006.

20 Q During your employment with *Santa Barbara News Press*, were
21 you aware of a requirement that you submit a certain quantity
22 of stories?

23 A No.

24 Q Were you aware of a requirement that you needed to submit
25 at least one story per day?

1 A No.

2 Q You testified earlier a little bit about some experience
3 you had with investigative reporting. Can you tell us what
4 investigative reporting is?

5 MR. CAPPELLO: Objection, relevance.

6 JUDGE ANDERSON: Your theory, Counselor?

7 MS. SILVERMAN: One of the allegations in the complaint
8 deals with Mr. Robert Eringer, who was an investigative
9 reporter at the *News Press* and we're trying to establish the
10 Employer's past practice with respect to investigative
11 reporting.

12 JUDGE ANDERSON: So you want to establish definitions and
13 --

14 MS. SILVERMAN: And her familiarity with what
15 investigative reporting is.

16 JUDGE ANDERSON: Very well, overruled. Don't hesitate to
17 have her repeat the questions.

18 WITNESS: Okay.

19 A Can you repeat?

20 Q Are you -- sorry. What is investigative reporting?

21 A There's basically three types of reporting. There's what
22 you can call press release journalism where you basically take
23 a press release and rewrite it. There's what is referred to as
24 surface reporting where you cover more of the who, what, and
25 where of a situation. And investigative reporting goes into

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2016, an electronic PDF of Supplemental Joint Deferred Appendix was uploaded to the Court's CM/ECF system, which will send notice of filing to counsel for all participants in the case who are registered CM/ECF users:

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